

BOISE, THURSDAY, MARCH 10, 2016, AT 9:00 A.M.

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 42666

STATE OF IDAHO,)
)
Plaintiff-Appellant,)
)
v.)
)
JEFFREY B. MELLING,)
)
Defendant-Respondent.)
_____)

Appeal from the District Court of the Third Judicial District, State of Idaho, Canyon County. Hon. George A. Southworth, District Judge.

Hon. Lawrence G. Wasden. Attorney General; Russell J. Spencer, Deputy Attorney General, Boise, for appellant.

Sara B. Thomas, State Appellate Public Defender; Jenny C. Swinford, Deputy Appellate Public Defender, Boise, for respondent.

Nampa police responded to an altercation between two men in the front yard of a house and began questioning one of the men, Jeffery B. Melling. Melling's girlfriend came from inside the house and tossed a lockbox on the grass, claiming that it belonged to Melling. Melling repeatedly denied ownership of the box, but his girlfriend said it was his and showed the officers where the box had been kept in the house. Based on the denials of ownership, the officer opened the lockbox and found drug paraphernalia. Melling was arrested based on the contents of the box and his girlfriend's statements. While taking Melling to the police car, the officer observed Melling walking strangely. The officer asked Melling to separate his feet so that he could search for weapons and other paraphernalia. When Melling separated his feet, a glass pipe fell from his shorts and shattered on the ground. Melling denied ownership of the pipe. Melling was transported to jail where a different officer found a bag of white crystal substance inside Melling's wallet. Both the substance in the wallet and the broken pipe tested presumptively positive for methamphetamine.

The State charged Melling with possession of methamphetamine. Melling moved to suppress the evidence, arguing that it was obtained through an unlawful search and seizure. The district court granted Melling's motion, holding that Melling did not abandon the lockbox and therefore, the search of the lockbox and the subsequent arrest violated the Fourth Amendment. On appeal, the State argues that Melling did not have a reasonable expectation of privacy in the lockbox because he voluntarily abandoned it.